IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 2281 of 2015 (I)

PETITIONER :

NIYAS, AGED 28 YEARS,
S/O.NIJAM, N.S.MANZIL, PERUMALA ROAD,
MANCHA P.O., NEDUMANGAD, THIRUVANANTHAPURAM.

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENT :

THE AUTHORIZED OFFICER,
SUNDARAM BNP PARIBAS HOME FINANCE LTD,
T.C.20/30 (29), KAIRALI PLAZA, FIRST FLOOR,
KILLIPALAM, KARAMANA P.O., KILLIPALAM,
THIRUVANANTHAPURAM. PIN - 695 002.

BY ADV. SRI.VARGHESE C.KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 2281 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

P1- PHOTOCOPY OF THE STATEMENT OF ACCOUNT FOR THE PERIOD 1.4.2013 TO 31.3.2014 ISSUED BY THE SUNDARAM BNP PARIBAS HOME FINANCE LTD, THIRUVANANTHAPURAM BRANCH PERTAINING TO THE LOAN ACCOUNT OF PETITIONER

P1(A) PHOTOCOPY OF THE STATEMENT OF ACCOUNT FOR THE PERIOD 1.4.2014 TO 13.5.2014 ISSUED BY THE SUNDARAM BNP PARIBAS HOME FINANCE LTD, THIRUVANANTHAPURAM BRANCH PERTAINING TO THE LOAN ACCOUNT OF PETITIONER

P2- PHOTOCOPY OF THE RECEPIT DATED 31.7.2014 ISSUED BY THE SUNDARAM BNP PARIBAS HOME FINANCE LTD, THIRUVANANTHAPURAM BRANCH

P3- PHOTOCOPY OF THE TEMPORARY RECEIPT DATED 31.10.2014 ISSUED BY THE SUNDARAM BNP PARIBAS HOME FINANCE LTD, THIRUVANANTHAPURAM BRANCH

P4- PHOTOCOPY OF THE RECEIPT DATED 1.12.2014 ISSUED BY THE SUNDARAM BNP PARIBAS HOME FINANCE LTD, THIRUVANANTHAPURAM BRANCH

P5- PHOTOCOPY OF THE NOTICE DATED 1.11.2014 ISSUED BY THE RESPONDENT UNDER SECTION 13(2) OF THE ACT

P6- PHOTOCOPY OF HTE NEWSPAPER DATED 27.12.2014 OF MALAYALA MANORAMA

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.2281 of 2015

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Dated this the 9th day of February, 2015

J U D G M E N T

The petitioner who had availed of a housing loan from the respondent bank, defaulted in repayment of the same. Consequently, the respondent bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P5 is the notice under Section 13 (2) of the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.Shajin S.Hameed, the learned counsel for the petitioner and Sri.Varghese Kuriakose, the learned Standing Counsel appearing on behalf of the respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I note that the sole prayer of the petitioner is to permit him to remit the balance amounts outstanding to the bank in easy instalments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

i. The total overdue amount from the petitioner to the respondent bank, in respect of the loan as of today is stated to be Rs.4,92,302/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,92,302/- together with accrued interest in four equal, successive monthly instalments commencing from 01.03.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent Bank shall be kept in abeyance.

ii. It is made clear that if the petitioner commits a default in respect of any of the instalments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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